

MEMO ENDORSED



MICHAEL A. CARDODOZ
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

April 18, 2008

BY HAND DELIVERY

Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Ariel Flores v. The City of New York, et. al., 08 CV 03254 (AKH) (GWG)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department. I am writing, on behalf of the City of New York, to respectfully request a 60 day enlargement of time, from April 21, 2008 to June 20, 2008, to answer or otherwise respond to the complaint. This request for an extension is the City's first. Plaintiff's counsel has consented to this request.

We seek this extension for several reasons. In this case, the plaintiff alleges that on or about July 17, 2005, he was falsely arrested and maliciously prosecuted on drug-related charges. Plaintiff further alleges that as he could not post bail he spent over nine months in jail.

A review of the docket sheet indicates that the named individual defendants have not yet been served with the summons and complaint in this action. This extension should also allow plaintiff sufficient time to serve these officers.

An extension should allow time for this office to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent the officers once they have been served with process. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985)) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law).

*Time extended to
5/21/08*

SO ORDERED
Lewis A. Kaplan
LEWIS A. KAPLAN USJDJ
4/21/08

Further, we need the additional time to investigate the allegations of the complaint in accordance with this Office's obligations under Rule 11 of the Federal Rules of Civil Procedure. It is our understanding that the records of plaintiff's underlying criminal action, including police records, District Attorney files, and criminal court files are sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiff for execution, consents and authorizations for release of those records sealed so that we can access the information, properly assess this case, and respond to the complaint.

We once again ask the Court to extend the time in which the City has to respond to the Complaint from April 21, 2008 to June 20, 2008. We thank the Court for its consideration of this request.

Respectfully submitted,



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